

FILED
Clerk
District Court

1 LEONARDO M. RAPADAS
United States Attorney
2 JAMIE D. BOWERS
Assistant United States Attorney
3 DISTRICT OF THE NORTHERN
MARIANA ISLANDS
4 Horiguchi Building, Third Floor
P.O. Box 500377
5 Saipan, MP 96950
Telephone: (670) 236-2986
6 Fax: (670) 236-2945

JUN 30 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

7 Attorneys for United States of America

8

9 UNITED STATES DISTRICT COURT
NORTHERN MARIANA ISLANDS

10 UNITED STATES OF AMERICA,

Criminal Case No. CR 05 00022

11

Plaintiff,

COMPLAINT

12

v.

13

DAI Xaio Jun

14

Count 1Trafficking in Counterfeit Goods
18 U.S.C. § 2320

15

Count 2Possession of a Controlled Substance With
Intent to Distribute
21 U.S.C. §§841(a)(1) & 841(b)(1)(D)

16

Defendant.

17

18 THE UNDERSIGNED COMPLAINANT CHARGES UPON INFORMATION AND

19 BELIEF THAT:

20

COUNT 1

21

Trafficking in Counterfeit Goods

22

On or about June 29, 2005, in the District of the Northern Mariana Islands, the defendant

23

knowingly, intentionally and unlawfully trafficked and attempted to traffic in counterfeit goods.

24

That is, defendant transported, transferred, and caused to be transported and transferred,

25

approximately 4000 counterfeit tablets of the prescription drug, Viagra, bearing counterfeit

26

manufacturer's markings.

27

This is a violation of Title 18, United States Code, Section 2320.

28

1 **COUNT 2**

2 Possession of a Controlled Substance With Intent to Distribute

3 On or about January 29, 2005, in the District of the Northern Mariana Islands, the
4 Defendant, DAI Xiao Jun, did knowingly and intentionally possess with intent to distribute
5 approximately 2 pounds of Marijuana, a Schedule I controlled substance.

6 This is a violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D).

7 **COMPLAINANT FURTHER STATES:**

8 I Matthew Goward, having been duly sworn, hereby depose and state:

9 1. On June 12, 2005, a parcel from China destined for Saipan was intercepted at the San
10 Francisco Mail Facility containing approximately 2.75 kilos of suspected counterfeit Viagra. The
11 package was sent via express mail under express mail bill number EA676698549CN.

12 2. Further examination of the package revealed that the pills were wrapped in Chinese
13 newspaper and plastic and concealed inside a DVD player. The package was seized and referred to
14 the RAC Guam for action. The package was addressed to a Chen JIAN at PMB 212, PO Box 10002,
15 Saipan, 96950. The package was sent from Zhu JUN at No.19 Wen Yi Road, Shene District, China.
16 FDA Inspector Bobby Smith who was at the facility at the time of the seizure observed that the pills
17 appeared to be counterfeit. While no lab tests were performed at the facility, Inspector Smith has
18 had experience with counterfeit Viagra pills on previous occasions.

19 3. On June 14, 2005, SSA Matt Goward of the RAC Guam initiated an investigation into the
20 suspect counterfeit Viagra. SSA Goward contacted Assistant US Attorney Jamie Bowers regarding
21 the case and received approval for prosecution for the importation of counterfeit prescription
22 medication. SSA Goward also contacted Postal Inspector Craig Hales regarding the case and to
23 gather more information on the suspect receiving the package.

24 4. On June 17, 2005, SSA Goward received information from PI Hales regarding the
25 destination of the package on Saipan. PI Hales provided information that PO Box 10002 belonged
26 to a company called American Federal Group and that the American Federal Group acted as
27 Commercial Mail Receiving Agency (CMRA). The CMRA acts as a private mail facility and

1 distributes mail to customers that pay for their service, often at postal boxes located within the
2 business.

3 5. Records checks on the American Federal Group business show that the business is owned
4 by three people from the Peoples Republic of China. The business has been acting as a CMRA since
5 1994 and is located inside the Crown Market at the Chamorro Place Building, in Garapan, Saipan.
6 The CMRA serves approximately 200 customers with box 212 being rented to a Bai YAN.

7 6. On June 17, 2005, SSA Goward received the evidence from the San Francisco Mail
8 Facility. Inspection of the package sent from San Francisco showed that the inspectors had removed
9 the Viagra from the packages within the DVD player and placed it inside an evidence bag. Also
10 inserted into the box was a seizure notice indicating that the items had been seized.

11 7. Inspection of the DVD player revealed that the player had been used before. This was
12 evident from the adhesive on stickers attached to the DVD player being extremely worn and from
13 evidence of rust on the rear portion of the DVD player. Additionally, the parts on the DVD player
14 did not fit together well and the screws showed evidence of wear.

15 8. On June 20, 2005, SSA Goward traveled to Saipan and received copies of documents
16 relating to the CMRA and the Crown Market business. SSA Goward also visited the Crown Market.
17 During the visit to the Crown Market, SSA Goward was able to identify one of the owners of the
18 business working at the business. Inspection of the business did not reveal any post office boxes. A
19 sign directly outside the business did however show that the CMRA was located at the market.

20 9. On June 23, 2005, SSA Goward received postal form 1583 from PI Hales for PMB 212
21 located at the CMRA. The postal form 1583 shows that PMB 212 belongs to a Bai YAN, ID# 0168-
22 96. The form also shows that a Dai YAN and Dai Xiao JUN are listed to receive mail at PMB 212.

23 10. On June 23, 2005, SSA Goward and TFA Barbara Tayama contacted Registered
24 Pharmacist Mildred Gabriel at the Rexall Pharmacy in Tamuning, Guam. Ms. Gabriel presented to
25 SSA Goward and TFA Tayama authentic Viagra purchased through a local wholesaler. Comparison
26 of the authentic Viagra and the suspect counterfeit Viagra revealed that the counterfeit Viagra was
27 larger in length and width than the authentic product. Further examination also showed that the
28 counterfeit product had a slightly darker blue tone than the authentic.

1 11. Ms. Gabriel performed a weight analysis between the two products and found that the
2 counterfeit product was slightly heavier. This test was based on a 10 pill sample from both
3 categories. SSA Goward and TFA Tayama inquired of Ms. Gabriel if any prescription medications
4 from China were allowed into the United States. Ms. Gabriel stated that they weren't approved by
5 the Food and Drug Administration and that Pharmacies were prohibited from purchasing
6 medications from foreign countries. When asked if she thought that 4000 pills of Viagra was a
7 reasonable amount for a pharmacy to have on hand, she stated that for the average pharmacy it would
8 not be reasonable to have that quantity on hand.

9 12. On June 29, 2005, Special Agents from the Immigration and Customs Enforcement,
10 United States Postal Service, Drug Enforcement Administration, CNMI Customs and CNMI
11 Department of Labor executed a controlled delivery of the express mail package containing sham
12 Viagra tablets to the Saipan US Post Office. The package was placed in the bin for PO Box 10002,
13 belonging to a Commercial Mail Receiving Agency (CMRA) known as BBB, a.k.a. Golden Crown
14 Market. The package was placed in the bin at approximately 1200 hours by PI Craig Hales. PI Hales
15 observed the CMRA representative come to the box and pickup the mail designated for the CMRA.
16 PI Hales observed the CMRA representative pickup the express mail package and place it inside a
17 beige colored Toyota van and drive away from the US Postal Facility.

18 13. Surveillance units observed the beige colored Toyota van drive north on Beach Road
19 towards the Garapan, Saipan area. The van then turned right onto Navy Hill road and came to stop
20 in front of the Golden Crown Market. The CMRA is located inside the Golden Crown Market. SSA
21 Goward observed the package being unloaded from the van and taken into the Golden Crown
22 Market.

23 14. At approximately 1755 hours Major Ed Cabrerra observed a male subject, dressed in
24 black riding a bicycle arrive at the Golden Crown Market. Major Cabrerra was able to identify the
25 subject as Dai Xiao JUN, a person that is listed on Postal Form 1583 as receiving mail at box 212
26 from the CMRA. Several minutes later Dai Xiao JUN was observed leaving the CMRA with the
27 package. Surveillance units followed Dai Xiao JUN as he traveled south on Navy Hill road towards
28 the Hyatt hotel. JUN was then observed turning left down an alley and towards the Promenade area

1 across from the Dai Ichi Hotel. JUN was then observed going inside the Liao Ti Tour agency
2 business located in the Promenade area. Agents followed JUN into the business a few minutes later
3 to observe that he had absconded through a secret door hidden behind a mirror in the rear of the
4 business.

5 15. A search of the area and questioning of a female subject in the Liao Ti business lead
6 Special Agents to an apartment above the Guang Zhou restaurant at the corner of Date street and
7 Coral Tree avenue, directly across from the Dai Ichi hotel. The female subject directed agents to
8 apartment B-3 located at the top of the stairs. Special Agents knocked on the door and announced
9 their presence numerous times. SSA Goward heard activity inside the apartment and in an effort to
10 preserve the evidence forced entrance into the residence.

11 16. After gaining entrance into the residence, SSA Goward observed JUN in the
12 bedroom of his apartment. After securing JUN, a safety sweep was made of the apartment for
13 other subjects and dangerous weapons. During the sweep, Special Agents observed portions of
14 the sham Viagra tablets on the desk in the bedroom, along with labels marked Viagra, and
15 prescription bottles on the bed.

16 17. An ultraviolet light examination of JUN's hands revealed the presence of "Clue"
17 spray that had been applied to the sham packages. The "Clue" spray had been applied to the
18 packages prior to the delivery to the CMRA and shows that JUN had handled the sham packages.

19 18. At approximately 2200 hours on June 29, 2005, SSA Goward obtained a Federal
20 search warrant for the JUN's residence. During the execution of the search warrant, Special
21 Agents found the express mail package that had been delivered to the CMRA in JUN's bedroom
22 near the closet. Agents observed that 9 of the sham Viagra packages had been removed from the
23 package and placed inside a plastic bag inside the closet and the other 2 were found on top of a
24 desk in JUN's bedroom.

25 19. A search of the refrigerator in the kitchen revealed 9 large ziplock bags of a green
26 leafy substance that was identified by Special Agents as being marijuana. Also found were 7
27 smaller bags containing 5 rolled marijuana cigarettes each. The quantity and packaging of the
28 marijuana are consistent with possession of marijuana for distribution.

1 20. During a search of JUN's bedroom, Special Agents found numerous prescription
2 bottles labeled with Viagra. Special Agents also found numerous unlabeled bottles consistent
3 with the type used to package Viagra. Labels were also found in the bedroom that had been
4 printed with the Viagra information.

5 21. Several thousand dollars of US and foreign currency was found at the residence and
6 on JUN. Also found were numerous bank receipts from various banks showing deposits of
7 several thousand dollars. Special Agents also found several passports belonging to different
8 women in JUN's apartment.

9 22. A thorough examination and documentation of all the evidence gathered in this case
10 is being conducted and a report detailing the results will be executed.


Matthew Goward
Senior Special Agent
Bureau of Immigration and Customs Enforcement

Subscribed and sworn to before me this 30th day of June, 2005.

Honorable Alex R. Munson
U.S. District Judge